

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

10-CR-6058CJS

-v-

DAVID RODRIGUEZ,

Defendant.

GOVERNMENT'S MOTION FOR DOWNWARD DEPARTURE

THE UNITED STATES OF AMERICA, by and through its attorneys, William J. Hochul, Jr., United States Attorney for the Western District of New York, and Robert A. Marangola, Assistant United States Attorney, hereby moves the Court for a downward departure in sentence for the above-captioned defendant, for the reasons set forth below.

1. On November 12, 2010, defendant David Rodriguez entered a plea of guilty to a violation of Title 21, United States Code, Section 846 (conspiracy to possess with intent to distribute, and to distribute, five (5) kilograms or more of cocaine and 50 grams or more of cocaine base) in the above-captioned case. Pursuant to the Plea Agreement, the Government agreed to move for a downward departure in sentence if the defendant cooperated with the Government by providing substantial assistance.

2. The Government hereby represents to the Court that the defendant provided substantial cooperation within the meaning of Sentencing Guidelines §5K1.1 and the Plea Agreement executed by the parties. Accordingly, the Government moves the Court for a downward departure pursuant to Guidelines §5K1.1. The basis for the motion is contained in correspondence addressed to the Court this same date. Specifically, a 24-month departure from the Rule 11(c)(1)(C) agreement of 180 months is recommended. If accepted, this would result in a sentence of 156 months.

DATED: Rochester, New York, January 24, 2012.

WILLIAM J. HOCHUL, JR.
United States Attorney
Western District of New York

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Kerry J. Chartier, USPO

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CERTIFICATE OF SERVICE

I hereby certify that on January 24, 2012, I electronically filed the foregoing with the Clerk of the District Court using its CM/ECF system, which would then electronically notify the following CM/ECF participants on this case:

1. Matthew D. Nafus, Esq.

s/Lori Pietrzykowski
LORI PIETRZYKOWSKI